

**REMARKS**

This reply is responsive to the Office Action mailed on April 19, 2006. Claims 1-7 and 11-14 are pending in the application. Reconsideration in light of the following remarks is requested.

**I. Objection to the Oath/Declaration**

The Examiner reminded the Applicant that in order to be granted the rights to an earlier effective filing date, a new oath/declaration must be filed. A Declaration reciting the proper priority information is filed with this Response.

**I. Rejection under 35 U.S.C. § 102**

Claims 1-3, 5, 7, and 11-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Epstein. Applicants respectfully disagree. Epstein was filed on March 25, 1999, and claimed priority to a Provisional Application that was filed on July 14, 1998. The instant application was filed on April 6, 2001, and can rightfully claim priority to several Provisional Applications, the earliest of which was filed on November 12, 1999. Accordingly, on its face Epstein qualified as prior art to the Applicant's application under 35 U.S.C. § 102(e).

The attached 37 C.F.R. § 1.131 Declaration of the sole inventor Eric J. Sprunk establishes that the instant invention was conceived prior to the filing date of the Epstein Provisional Application. Particularly, the attached Declaration establishes that the

claimed subject matter of the present application was memorialized and shared with other General Instrument employees no later than June 2, 1998. Accordingly, the attached Declaration antedates Epstein, thus removing it as prior art. See, MPEP 715. Hence, Applicant respectfully requests the above rejection under Epstein be withdrawn.

## **II. Rejection under 35 U.S.C. § 103**

Claim 6 stands rejected under 35 U.S.C. § 103 as being obvious over Epstein. Claims 4 and 14 stand rejected under 35 U.S.C. § 103 as being obvious over Epstein in view of Wasilewski (U.S. Patent No. 6,157,719). Applicant respectfully disagrees.

As with respect to claims 1-3, 5, 7, and 11-13 in Section I., the attached 37 C.F.R. § 1.131 Declaration of the sole inventor Eric J. Sprunk establishes that the instant invention was conceived prior to the filing date of the Epstein Provisional Application. In this Response the Applicant has provided documentation attesting to the fact that Epstein should not be considered as prior art to the present invention. Consequently, the Applicant respectfully requests the Examiner to withdraw the 35 U.S.C. § 103 rejections, as Epstein is not prior art to the instant application.

### Conclusion

Having fully responded to the Office action, the application is believed to be in condition for allowance. Should any issues arise that prevent early allowance of the above application, the Examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicants hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

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Respectfully submitted,

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